

only when there is a dispute about a proposed action, that is, only when there is an objection. The phrase “such opportunity for a hearing as is appropriate in the particular circumstances” is designed to permit the Rules and the courts to expedite or dispense with hearings when speed is essential. The language “or similar phrase” is intended to cover the few instances in the bill where “after notice and a hearing” is interrupted by another phrase, such as “after notice to the debtor and a hearing.”

Paragraph (2) specifies that “claim against the debtor” includes claim against property of the debtor. This paragraph is intended to cover nonrecourse loan agreements where the creditor’s only rights are against property of the debtor, and not against the debtor personally. Thus, such an agreement would give rise to a claim that would be treated as a claim against the debtor personally, for the purposes of the bankruptcy code.

Paragraph (3) is a codification of *American Surety Co. v. Marotta*, 287 U.S. 513 (1933). It specifies that “includes” and “including” are not limiting.

Paragraph (4) specifies that “may not” is prohibitive and not permissive (such as in “might not”).

Paragraph (5) specifies that “or” is not exclusive. Thus, if a party “may do (a) or (b)”, then the party may do either or both. The party is not limited to a mutually exclusive choice between the two alternatives.

Paragraph (6) makes clear that “order for relief” means entry of an order for relief. If the court orally orders relief, but the order is not entered until a later time, then any time measurements in the bill are from entry, not from the oral order. In a voluntary case, the entry of the order for relief is the filing of the petition commencing the voluntary case.

Paragraph (7) specifies that the singular includes the plural. The plural, however, generally does not include the singular. The bill uses only the singular, even when the item in question most often is found in plural quantities, in order to avoid the confusion possible if both rules of construction applied. When an item is specified in the plural, the plural is intended.

#### AMENDMENTS

1986—Par. (9). Pub. L. 99-554 added par. (9).

1984—Par. (8). Pub. L. 98-353 substituted “contained” for “continued”.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Effective date and applicability of amendment by Pub. L. 99-554 dependent upon the judicial district involved, see section 302(d), (e) of Pub. L. 99-554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98-353, set out as a note under section 101 of this title.

### § 103. Applicability of chapters

(a) Except as provided in section 1161 of this title, chapters 1, 3, and 5 of this title apply in a case under chapter 7, 11, 12, or 13 of this title.

(b) Subchapters I and II of chapter 7 of this title apply only in a case under such chapter.

(c) Subchapter III of chapter 7 of this title applies only in a case under such chapter concerning a stockbroker.

(d) Subchapter IV of chapter 7 of this title applies only in a case under such chapter concerning a commodity broker.

(e) Except as provided in section 901 of this title, only chapters 1 and 9 of this title apply in a case under such chapter 9.

(f) Except as provided in section 901 of this title, subchapters I, II, and III of chapter 11 of this title apply only in a case under such chapter.

(g) Subchapter IV of chapter 11 of this title applies only in a case under such chapter concerning a railroad.

(h) Chapter 13 of this title applies only in a case under such chapter.

(i) Chapter 12 of this title applies only in a case under such chapter.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2555; Pub. L. 97-222, §2, July 27, 1982, 96 Stat. 235; Pub. L. 98-353, title III, §423, July 10, 1984, 98 Stat. 369; Pub. L. 99-554, title II, §252, Oct. 27, 1986, 100 Stat. 3104.)

#### HISTORICAL AND REVISION NOTES

##### SENATE REPORT NO. 95-989

Section 103 prescribes which chapters of the proposed bankruptcy code apply in various cases. All cases, other than cases ancillary to foreign proceedings, are filed under chapter 7, 9, 11, or 13, the operative chapters of the proposed bankruptcy code. The general provisions that apply no matter which chapter a case is filed under are found in chapters 1, 3, and 5. Subsection (a) makes this explicit, with an exception for chapter 9. The other provisions, which are self-explanatory, provide the special rules for Stockbroker Liquidations, Commodity Broker Liquidations, Municipal Debt Adjustments, and Railroad Reorganizations.

#### AMENDMENTS

1986—Subsec. (a). Pub. L. 99-554, §252(1), inserted reference to chapter 12.

Subsec. (i). Pub. L. 99-554, §252(2), added subsec. (i).

1984—Subsec. (c). Pub. L. 98-353 substituted “stockbroker” for “stockholder”.

1982—Subsec. (d). Pub. L. 97-222 struck out “except with respect to section 746(c) which applies to margin payments made by any debtor to a commodity broker or forward contract merchant” after “concerning a commodity broker”.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-554 effective 30 days after Oct. 27, 1986, but not applicable to cases commenced under this title before that date, see section 302(a), (c)(1) of Pub. L. 99-554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98-353, set out as a note under section 101 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 901, 902, 943 of this title.

### § 104. Adjustment of dollar amounts

(a) The Judicial Conference of the United States shall transmit to the Congress and to the President before May 1, 1985, and before May 1 of every sixth year after May 1, 1985, a recommendation for the uniform percentage adjustment of each dollar amount in this title and in section 1930 of title 28.

(b)(1) On April 1, 1998, and at each 3-year interval ending on April 1 thereafter, each dollar amount in effect under sections 109(e), 303(b), 507(a), 522(d), and 523(a)(2)(C) immediately before such April 1 shall be adjusted—

(A) to reflect the change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for the most recent 3-year period ending immediately before January 1 preceding such April 1, and

(B) to round to the nearest \$25 the dollar amount that represents such change.

(2) Not later than March 1, 1998, and at each 3-year interval ending on March 1 thereafter, the Judicial Conference of the United States shall publish in the Federal Register the dollar amounts that will become effective on such April 1 under sections 109(e), 303(b), 507(a), 522(d), and 523(a)(2)(C) of this title.

(3) Adjustments made in accordance with paragraph (1) shall not apply with respect to cases commenced before the date of such adjustments.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2555; Pub. L. 103-394, title I, §108(e), Oct. 22, 1994, 108 Stat. 4112.)

#### HISTORICAL AND REVISION NOTES

##### LEGISLATIVE STATEMENTS

Section 104 represents a compromise between the House bill and the Senate amendment with respect to the adjustment of dollar amounts in title 11. The House amendment authorizes the Judicial Conference of the United States to transmit a recommendation for the uniform percentage of adjustment for each dollar amount in title 11 and in 28 U.S.C. 1930 to the Congress and to the President before May 1, 1985, and before May 1 of every sixth year thereafter. The requirement in the House bill that each such recommendation be based only on any change in the cost-of-living increase during the period immediately preceding the recommendation is deleted.

##### SENATE REPORT NO. 95-989

This section requires that the Director of the Administrative Office of the U. S. Courts report to Congress and the President before Oct. 1, 1985, and before May 1 every 6 years thereafter a recommendation for adjustment in dollar amounts found in this title. The Committee feels that regular adjustment of the dollar amounts by the Director will conserve congressional time and yet assure that the relative dollar amounts used in the bill are maintained. Changes in the cost of living should be a significant, but not necessarily the only, factor considered by the Director. The fact that there has been an increase in the cost of living does not necessarily mean that an adjustment of dollar amounts would be needed or warranted.

##### HOUSE REPORT NO. 95-595

This section requires the Judicial Conference to report to the Congress every four years after the effective date of the bankruptcy code any changes that have occurred in the cost of living during the preceding four years, and the appropriate adjustments to the dollar amounts in the bill. The dollar amounts are found primarily in the exemption section (11 U.S.C. 522), the wage priority (11 U.S.C. 507), and the eligibility for chapter 13 (11 U.S.C. 109). This section requires that the Conference recommend uniform percentage changes in these amounts based solely on cost of living changes. The dollar amounts in the bill would not change on that recommendation, absent Congressional veto. Instead, Congress is required to take affirmative action, by passing a law amending the appropriate section, if it wishes to accomplish the change.

If the Judicial Conference has policy recommendations concerning the appropriate dollar amounts in the bankruptcy code based other than on cost of living considerations there are adequate channels through which

it may communicate its views. This section is solely for the housekeeping function of maintaining the dollar amounts in the code at fairly constant real dollar levels.

#### AMENDMENTS

1994—Pub. L. 103-394 designated existing provisions as subsec. (a) and added subsec. (b).

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under this title before Oct. 22, 1994, see section 702 of Pub. L. 103-394, set out as a note under section 101 of this title.

### § 105. Power of court

(a) The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

(b) Notwithstanding subsection (a) of this section, a court may not appoint a receiver in a case under this title.

(c) The ability of any district judge or other officer or employee of a district court to exercise any of the authority or responsibilities conferred upon the court under this title shall be determined by reference to the provisions relating to such judge, officer, or employee set forth in title 28. This subsection shall not be interpreted to exclude bankruptcy judges and other officers or employees appointed pursuant to chapter 6 of title 28 from its operation.

(d) The court, on its own motion or on the request of a party in interest, may—

(1) hold a status conference regarding any case or proceeding under this title after notice to the parties in interest; and

(2) unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure, issue an order at any such conference prescribing such limitations and conditions as the court deems appropriate to ensure that the case is handled expeditiously and economically, including an order that—

(A) sets the date by which the trustee must assume or reject an executory contract or unexpired lease; or

(B) in a case under chapter 11 of this title—

(i) sets a date by which the debtor, or trustee if one has been appointed, shall file a disclosure statement and plan;

(ii) sets a date by which the debtor, or trustee if one has been appointed, shall solicit acceptances of a plan;

(iii) sets the date by which a party in interest other than a debtor may file a plan;

(iv) sets a date by which a proponent of a plan, other than the debtor, shall solicit acceptances of such plan;

(v) fixes the scope and format of the notice to be provided regarding the hearing on approval of the disclosure statement; or

(vi) provides that the hearing on approval of the disclosure statement may be